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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,951	07/27/2001	Scott Fergusson	1137.1103101	9341

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CROMPTON, SEAGER & TUFTE, LLC  
1221 NICOLLET AVENUE  
SUITE 800  
MINNEAPOLIS, MN 55403-2420

EXAMINER

KRSCIUNAS, LINDA MARY

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/916,951

Applicant(s)

FERGUSON ET AL.

Examiner

Linda Krisciunas

Art Unit

3623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-6, 8-26 and 28-35.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see Attachment A.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: PTO-892.

  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**

**ATTACHMENT A**

**DETAILED ACTION**

1. The following is an After Final Office Action in response to the applicant's remarks filed March 23, 2006. Claims 1-6, 8-26 and 28-35 are pending.

***Response to Arguments***

2. With respect to the applicant's comments that Melchione does not teach tracking or representatives that represent particular customers, the Examiner respectfully disagrees. Melchione teaches tracking as noted in column 6, lines 34-39 and column 6, lines 48-51, where the CCIS system tracks and reports sales and tracks the success of customer solicitations. When the leads are sent out to the branches the bankers contact the leads, which would imply all are contacted and the fact that the system tracks the sales generated, would constitute tracking those that have been contacted with the marketing information and those that have purchased the product. Melchione teaches representing particular customers since it teaches having branch managers and having leads sent to each representative branch (column 7, lines 14-23). Therefore the branch is a representative of a certain grouping of customers or leads as indicated by Melchione. Bank branches are typically geographically separate, but can also be segregated according to types of transactions.

3. With respect to claim 25:

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Melchione (US 5,930,764).

As per claim 25, Melchione teaches a method for marketing a product to customers of a business, wherein the business has a number of representatives, and each representative represents a portion of the customers, the method comprising the steps of: providing a customer database for storing information about the customers of the business ((10) central database); providing a marketing project having a number of marketing project parameters (column 6, lines 22-25, where the invention is used for supporting marketing activities and (32) a parameter database); applying the number of marketing project parameters against the information in the customer database to identify selected customers (column 9, lines 1-5); providing a notice announcing the marketing project to one or more of the representatives (column 7, lines 13-23, where the bank management decides on a sales promotion and communicates it to the regional marketing center which in turn informs the branches and personal bankers.); at least some of the representatives reviewing the notice and requesting a customized listing that includes a listing of the portion of the selected customers that are represented by the representative (column 8, lines 61-66, where the branch managers request leads, and the leads would be specific to that branch ie the branch represents a certain portion of the leads, this may be based on geography or types of transactions); and determining a marketing project appeal indicator by monitoring how many representatives reviewed the notice and requested a customized listing (column 9, lines 45-67 and column 10, lines 1-8, where the leads are entered into the CCIS system and assigned to bankers. The system provides detailed access to the sales transactions for each banker and one can view the sales results for the various campaigns to track the

Art Unit: 3623

performance and make adjustments in the campaign as needed. This is equivalent to the marketing project appeal indicator as it performs an identical function in substantially the same manner with substantially the same results.).

4. Official notice was taken with respect to claims 14 and 18 with respect to the fact that the concept and advantage of determining common characteristics for customers that purchased a product are well known and expected in the art. One such reference is found in Busche et al (US 2003/0055707), where retailer databases are mined using data mining algorithms to find relationships among products, customers and purchases (506). Customers can be identified using financial transaction databases (paragraph 9). Additional references include: Gorenstein (US 2003/0009369), Nabe et al (US 2002/0194050), and Day et al (US 2001/0013011).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMK

*LMK*  
*March 31, 2006*

*Susanna Diaz*

SUSANNA M. DIAZ  
PRIMARY EXAMINER

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